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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 4, 2022
MOAHR Docket No.: 21-006182
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via teleconference on March 9, 2022. ██████████ Petitioner's Authorized Hearing Representative (AHR), appeared on behalf of Petitioner. Rebecca Jett, Assistance Payments Worker, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly process Petitioner's application for the Medicare Savings Program (MSP)/Medicare Cost Share?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████, 2021, Petitioner applied for health care coverage (Exhibit A, pp. 7-12). The application indicated that Petitioner was receiving Medicare and that he needed help paying for Medicare premiums (Exhibit A, pp. 8-11).
2. On October 11, 2021, MDHHS sent Petitioner a Health Care Coverage Determination Notice, which indicated that Petitioner was approved for MSP – QMB (Qualified Medicare Beneficiary) from October 1, 2021 ongoing (Exhibit A, p. 13). The notice indicated that Respondent was not eligible for MSP for the month of September 2021 because he had full Medicaid coverage (Exhibit A, p. 13).

3. On [REDACTED], 2021, Petitioner filed a hearing request disputing the processing of Petitioner's application for MSP (Exhibit A, pp. 4).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

Medicare is a federal program administered by the Social Security Administration (SSA). BAM 810 (January 2020), p. 1. MSP is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2020), pp 1-2; BAM 810 (January 2020), p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are three MSP categories: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2. Clients must be entitled to Medicare Part A to be eligible for the program. BEM 165, pp. 5-6.

Income is the major determiner of MSP category. BEM 165, p. 1. Clients who are unmarried and therefore the only member of the MA fiscal group are eligible for QMB if their monthly net income is no more than 100% of the Federal Poverty Level (FPL), or \$1,094.00 (effective April 1 2021); SLMB if their monthly net monthly income is between 100% and 120% of FPL, or \$1,094.01-\$1,308.00 (effective April 1, 2021); and ALMB if their monthly net income is between 120% and 135% of FPL, or \$1,308.01 and 1,469.00 (effective April 1, 2021). RFT 242 (November 2021), pp. 1-2; BEM 165, pp. 2, 8.

If the applicant is eligible for QMB, MDHHS must begin QMB coverage the calendar month after the processing month, which is the month the eligibility determination is made. BEM 165, pp. 3-4. QMB is not eligible for past months or the processing month. *Id.* SLMB and ALMB coverages are available for retroactive MA months and later

months, however, a person cannot choose SLMB instead of QMB in order for coverage to start sooner. *Id.*

In this case, MDHHS approved Petitioner for MSP beginning October 1, 2021. At the hearing, MDHHS stated that Petitioner was approved for QMB in October 2021 because it was the month after Petitioner submitted the application, i.e., the processing month. MDHHS also stated that Petitioner was ineligible for MSP in September 2021 because he was receiving cost share benefits from Virginia and a person cannot received Medicare cost share benefits from two states at the same time.

Petitioner's AHR testified that she and Petitioner moved to Michigan from Virginia in July 2021 and disputed that Petitioner received Medicare cost share benefits from Virginia for the month of September 2021. AHR provided documentation from SSA dated October 5, 2021, which stated that Virginia will no longer pay Petitioner's Medicare Part B premium after August 2021 (Exhibit 1, p. 7).

Although AHR submitted sufficient evidence to show that Virginia did not pay Petitioner's Medicare premiums in September 2021, MDHHS properly determined the start date of Petitioner's QMB coverage. The record shows that Petitioner applied for MSP on ██████████ 2021 and MDHHS determined that he was eligible for QMB coverage beginning October 1, 2021. The determination was based on Petitioner's annual income of \$████████ or \$████████ per month (Exhibit A, p. 13). Because Petitioner's income was under 100% of FPL for a group-size of one, he was eligible for MSP – QMB. Pursuant to policy, QMB coverage begins the month after the processing month, which was ██████████ 2021 in this case, and retroactive QMB coverage is not available.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS acted in accordance with Department policy when it approved Petitioner for QMB coverage, effective October 1, 2021.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.



Linda Jordan
Administrative Law Judge

LJ/tm

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Email Recipients:

MDHHS-Calhoun-Hearings
C. George
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Petitioner:

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Authorized Hearing Rep.

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